

MEMORANDUM

March 1, 1979

TO: BOSTON REDEVELOPMENT AUTHORITY
FROM: ROBERT J. RYAN, DIRECTOR
SUBJECT: PROPOSED ZONING TEXT AMENDMENT

The attached petition proposes a number of fairly minor changes to the Boston Zoning Code. An item-by-item explanation follows:

- Item 1 Change made for sake of alphabetical order.
- Item 2 "School" is not defined in the Zoning Code. The Zoning Code specifies that words not defined in the Zoning Code but defined in the Building Code shall have the meanings given in the Building Code. The Building Code, for purposes of egress and other safety measures, excludes from its definition of "school" a school having fewer than ten students. This makes sense for building regulations, but not for zoning purposes. It leaves no suitable use item for uses which clearly are schools, such as a drivers education school with fewer than ten students at a time. Normally, driving schools would be in Use Item No. 18: trade, professional or other schools. The Building Department requested that a definition of "school", with no exclusion based on the number of students, be inserted into the Zoning Code. Note: Small classes and private tutoring conducted in homes would continue to be classified as accessory customary home occupations.
- Item 3 The change recognizes the fact that the Boston Building Code was superceded by the Commonwealth of Massachusetts State Building Code in 1975.
- Item 4 Incorporates language contained in Section 8-6 into Section 8-3. Section 8-6 deals only with pre-existing uses made conditional by the adoption of the Code or ones made conditional by an amendment to the code. Putting this language into 8-3 makes the continued use of conditional uses granted by the Board of Appeal subject to maintaining the character and extent of structures and operations and would make the language consistent with current practice.
- Item 5 The Building Department feels that use items in Table A that are treated differently in an Institutional District should be flagged in Table A.

- Item 6 An outside zoning expert who was reviewing the Code from a point of view of energy efficiency pointed out that if multi-family dwellings are conditional in M and W districts, it is logical to make Use Item No. 8, conversion for more families, conditional in these districts rather than forbidden.
- Item 7 The same expert feels primary and secondary schools should be forbidden in I districts, where all residences are forbidden, and conditional in W districts where multi-family residences are conditional.
- Item 8 The Building Department feels that the Code is unclear as to whether a new cemetery is allowed; presently Use Item 26 deals only with extensions of, and structures on, existing cemeteries. The change would insert "New Cemetery" as a land use, and make the use conditional in all districts, since cemeteries are an unproductive use of urban land but should not be forbidden.
- Item 9 The Building Department has trouble with the fact that there is no reference in Table B (dimensional regulations) to Section 18-2 (conformity with existing building alignment). The insertion of this footnote is intended to correct the deficiency.
- Item 10 Early drafts of the Code had an article dealing with courtyards which was later deleted without changing this reference to the articles dealing with dimensional regulations. Article 23 now deals with off-street parking regulations.
- Item 11 Since the Zoning Code was drafted, there have been a number of changes in housing laws encouraging entities other than the Housing Authority to build housing for elderly persons of low income. If such housing is built under housing laws of the Commonwealth or the U.S. Housing Act of 1937 as amended, it should be eligible for lower parking requirements provided in the footnote.
- Item 12 Section 23-7A provides that if a pre-Code structure is "altered or extended so as to increase its gross floor area or the number of dwelling units, only the additional gross floor area or the additional number of dwelling units, shall be counted in computing the off-street parking facilities required." The additional language extends the same grandfather provision to a change in the use of a pre-Code structure.

I recommend that the Advisor to the Zoning Commission be authorized to petition the Zoning Commission for a text amendment in substantial accord with the attached petition.

VOTED: That the Boston Redevelopment Authority hereby petition the Advisor to the Zoning Commission to petition said Commission for an amendment to the text of the Boston Zoning Code that is in substantial accord with the attached draft petition.

S/218/A

Text Amendment Application No.
Advisor to the Zoning Commission
Minor Corrections and Changes

TO THE ZONING COMMISSION
OF THE CITY OF BOSTON:

The Advisor to the Zoning Commission, acting at the request of the Building Commissioner of the City of Boston and in accord with Chapter 665 of the Acts of 1956 as amended, hereby petitions for an amendment to the text of the Boston Zoning Code as follows:

1. By striking out in clause 3A of Section 2-1, respecting the meaning of certain words and phrases, the words "Drive-in bank", and inserting in place thereof the following words:

"Bank, drive-in",

2. By inserting in said Section 2-1, following clause 38B, the following clause:

(38C) "School", buildings, premises and parts thereof in which a regular course of public or private instruction is given.

3. By striking out the words "Boston Building Code" as they appear twice in Section 2-2 and once in Section 18-1 and inserting in place thereof, in each case, the following words:

Commonwealth of Massachusetts State Building Code

4. By inserting at the end of Section 8-3, respecting conditional uses, the following sentence:

The continued right to a conditional use is dependent upon maintaining the character and extent of operations and structures.

5. By inserting below the key in Table A of Section 8-7 the following notation:

ID = Institutional District. See Section 3-1A for specific regulations.

and by inserting below Use Item Nos. 16, 17, 20, 22A, 28, 29, 30 and 72 the following reference:

ID

6. By striking out in Use Item No. 8 of said Table A, respecting conversion of dwelling structures for more families, the letter "F" as it appears in the columns headed M and W and inserting in place thereof, in each instance, the letter

C

7. By striking out in Use Item No. 16 of said Table A, respecting an elementary or secondary school, the letter "C" in the column headed I and the letter "F" in the column headed W and inserting in place thereof the following letters:

F (under I)
C (under W)

8. By inserting, at the beginning of Use Item No. 26, the following use subitem:

26 a New cemetery CCC/CC/CCC

and by relettering the remaining use items

b.
c.
d.
e.

9. By inserting, in the heading of Table B of Section 13-1, under "FRONT YARD - minimum depth - feet" the following footnote reference:

(14)

and by inserting below footnote (13) of said Table, the following footnote:

(14) See also Section 18-2.

10. By striking out in Section 13-1 and 13-3, respecting dimensional requirements and nonconformity as to dimensional requirements, the phrase "Articles 14 to 23, inclusive," and inserting in place thereof in each case, the following phrase:

Articles 14 to 22, inclusive,

11. By striking out, in the second footnote of Section 23-1 respecting parking requirements for residential uses, the following words:

by the Boston Housing Authority

12. By inserting at the end of Section 23-7A, respecting off-street parking for pre-Code structures, the following sentence:

If the use of such pre-Code structure is changed to a use requiring more off-street parking spaces than the pre-Code use would have required under this Code only the number of spaces in excess of the number previously so required for the pre-Code use must be provided.

Petitioner: Advisor to the Zoning Commission

By: _____

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Date: _____

